NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI
SPECIAL BENCH (Court-II)

(IB)-1048(ND)2019

IN THE MATTER OF:

M/s Worldwide Metals Pvt Ltd.
402, 4th Floor, Aditya Tower
Laxmi Nagar, District Centre
Vikas Marg, Delhi-110092 **...Operational Creditor**

VERSUS

M/s J.P. Engineers Pvt. Ltd.
3/8, 2nd Floor
Asaf Ali Road
New Delhi-110002 **... Corporate Debtor**

Section: 9 of IBC, 2016

Judgement Delivered on: 26.02.2020

CORAM:

DR. DEEPTI MUKESH, HON'BLE MEMBER (J)

SHRI. L. N. GUPTA, HON'BLE MEMBER (T)

PRESENT:

For the Petitioner	:	Mr. A.K. Vali and Mr. Rajat Jain, Advocates
For the Respondent	:	Mr. P. Nagesh and Mr. Harshal Kumar, Advocates

JUDGEMENT

PER SHRI L. N. GUPTA, MEMBER (T)

The present Petition is filed under the Section 9 of the Insolvency and Bankruptcy Code, 2016 (for brevity 'IBC, 2016') read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (for brevity 'the Rules') by M/s Worldwide Metals Pvt. Ltd. through its Authorized Representative Mr. Prem Chand Gupta (for brevity 'Operational Creditor'), with a prayer to initiate the Corporate Insolvency Resolution Process against M/s J.P. Engineers Pvt. Ltd. (for brevity 'Corporate Debtor').

2. The Operational Creditor namely, M/s. Worldwide Metals Pvt. Ltd. is a Company incorporated under the Provisions of Companies Act, 1956 with CIN No. U51109DL2015PTC286863, having its registered office at 402, 4TH Floor, Aditya Tower, Laxmi Nagar, District Centre, Vikas Marg, New Delhi-110092.

3. The Corporate Debtor namely, M/s. J.P. Engineers Pvt. Ltd. is a Company incorporated on 20.03.2014 under the Provisions of Companies Act, 2013 with CIN No. U51504DL2014PTC266624, having its registered Office at Flat No. 3/8, II Floor Asaf Ali Road, New Delhi-110002.

4. The Authorized Share Capital of the Corporate Debtor is Rs.30,00,00,000 and its Paid-up Share Capital is Rs.28,25,41,800 as per the Master Data of the Company annexed.

5. It is the Operational Creditor's case that the Corporate Debtor had been a regular buyer of Aluminum Ingots and Wire Rods from the Operational Creditor. The Corporate Debtor had a running account with the Operational Creditor.

6. It is submitted by the Operational Creditor that the Principal Operational Debt pertains to purchase of Aluminum Ingots and Wire Rods during the period from 06.12.2017 to 16.04.2018. It is added by the Operational Creditor that the following invoices are pending for payment:

> "WWMPL/DG/0112, WWMPL/DG/0113, WWMPL/DG/0164 to 0166, WWMPL/DG/0170 to 0188, WWMPL/DG/0209 to 0211, WWMPL/DG/0226 to 0239, WWM/DEL1819/5, WWM/DEL1819/8, WWM/DEL1819/10, WWM/DEL1819/15, WWM/DEL1819/17 and WWM/DEL1819/23".

7. It is stated by the Operational Creditor that the aggregate amount of the invoices is Rs.16,76,85,704, out of which an amount of Rs.16,18,18,265 remains unpaid, for which it had sent a Demand Notice dated 27.10.2018 under the Section 8 of IBC 2016 vide Speed Post at the

Registered Office of the Corporate Debtor. It is further submitted by the Operational Creditor that the Corporate Debtor has replied to the Demand Notice vide its Letter dated 05.11.2018. The Operational Creditor has annexed an Affidavit filed under the Section 9(3)(b) of IBC, 2016. The Operational Creditor has also attached the Bank Statements issued by Punjab National Bank for the period from 01.01.2018 to 30.03.2019 in compliance of the requirement under Section 9(3)(c) of IBC, 2016.

8. That the Corporate Debtor has filed its reply on 10.06.2019, wherein, it has submitted that the supplies made by the Operational Creditor were based on oral instructions and without written purchase orders. It has further added that both the Operational Creditor and Corporate Debtor were maintaining running account and payments were being made on regular basis.

9. It is also submitted by the Corporate Debtor that the entries for the period from 01.04.2017 to 31.03.2018 and 01.04.2018 to 16.04.2018 in the Ledger Account as annexed by the Operational Creditor are not correct. It is added that the Operational Creditor has deliberately concealed the entries of payments made by the Corporate Debtor for and on the behalf of the Operational Creditor to the three entities viz., Oyster and Iron Private Limited, Simla Holdings, and Olympus Metal Private Limited, thereby nullifying liability towards the Corporate Debtor.

10. It is further submitted by the Corporate Debtor that vide its Letter dated 01.04.2017, it had sought confirmation from the Operational Creditor that against the purchases made by them from 01.03.2017 to 16.03.2017, an amount of Rs.5,43,42,267 was payable to the Operational Creditor. It has been further added that the details of the Operational Creditor's accounts as standing in the books of the Corporate Debtor for the period from 04.11.2016 to 31.03.2017 were given in the said Letter dated 01.04.2017. It has further added that the Operational Creditor confirmed the balance of Rs.5,43,42,267 only as payable by the Corporate Debtor.

11. The Corporate Debtor further submits that the Ledger Account for the Financial Year 2017-2018 as filed by the Operational Creditor is factually incorrect as would be evident from the following facts. During the Financial Year 2017-18, the Corporate Debtor has entries of payment of Rs.1,95,34,823 against the LC No. 016217LCOW0358 dated 21.10.2017 and Rs.1,95,79,294 against LC No. 106217ILCOW0395 dated 10.11.2017 to Olympus Metal Private Limited reflected in the Ledger Account of the Corporate Debtor annexed at Page 41 and 42 of its reply.

12. The copy of Ledger account maintained by the Corporate Debtor reflecting the adjustment entries in favour of M/s. Olympus Metal Pvt. Ltd. is reproduced overleaf :

Date	Particulars		Debit Amount
17-Oct-2017	(as per details) AGAINST L/C NO. 016217ILCOW0349 DUE DT. 12 /01/18		1,17,84,094.00
	BANK CHARGES - SOUTH INDIAN BANK	1,180.00 Dr	
	MARGIN MONEY-OTHERS	31,000.00 Dr	
	LC DISCOUNTING CHARGES-SOUTH INDIAN	2,18,002.00 Dr	
	LC DISCOUNTING - WORLDWIDE	1,20,34,276.00 Cr	
21-Oct-2017	OLYMPUS METAL PVT.LTD. AGAINST L/C NO. 016217ILCOW0358 DUE DT. 15 /01/18		1,95,34,823.00

Date	Particulars		Credit Amount
10-Oct-2017	Purchase - 38 B/NO.38		18,11,859.00
	PURCHASE GST LOCAL	15,31,973.00 Dr	
	FREIGHT & CARTAGE	3,500.00 Dr	
	CGST (INWARD)	1,38,193.00 Dr	
	SGST (INWARD)	1,38,193.00 Dr	
13-Oct-2017	Purchase - 0039 INVOICE NO:39		30,02,014.00
	PURCHASE GST LOCAL	25,40,580.00 Dr	
	FREIGHT & CARTAGE	3,500.00 Dr	
	CGST (INWARD)	2,28,967.00 Dr	
	SGST (INWARD)	2,28,967.00 Dr	
13-Oct-2017	Purchase - 40 INVOICE NO:40		30,20,443.00
	PURCHASE GST LOCAL	25,56,197.00 Dr	
	FREIGHT & CARTAGE	3,500.00 Dr	
	CGST (INWARD)	2,30,373.00 Dr	
	SGST (INWARD)	2,30,373.00 Dr	
13-Oct-2017	Purchase - 41 INVOICE NO:41		30,18,543.00
	PURCHASE GST LOCAL	25,54,587.00 Dr	
	FREIGHT & CARTAGE	3,500.00 Dr	
	CGST (INWARD)	2,30,228.00 Dr	
	SGST (INWARD)	2,30,228.00 Dr	
13-Oct-2017	Purchase - 0042 INVOICE NO:42		29,56,420.00
	PURCHASE GST LOCAL	25,01,940.00 Dr	
	FREIGHT & CARTAGE	3,500.00 Dr	
	CGST (INWARD)	2,25,490.00 Dr	
	SGST (INWARD)	2,25,490.00 Dr	
13-Oct-2017	Purchase - 0043 INVOICE NO:43		29,26,022.00
	PURCHASE GST LOCAL	24,76,180.00 Dr	
	FREIGHT & CARTAGE	3,500.00 Dr	
	CGST (INWARD)	2,23,171.00 Dr	
	SGST (INWARD)	2,23,171.00 Dr	
13-Oct-2017	Purchase - 44 INVOICE NO:44		29,99,354.00
	PURCHASE GST LOCAL	25,38,326.00 Dr	
	FREIGHT & CARTAGE	3,500.00 Dr	
	CGST (INWARD)	2,28,764.00 Dr	
	SGST (INWARD)	2,28,764.00 Dr	
14-Oct-2017	Purchase - 0045 INVOICE NO:45		29,10,635.00
	PURCHASE GST LOCAL	24,63,139.00 Dr	
	FREIGHT & CARTAGE	3,500.00 Dr	
	CGST (INWARD)	2,21,998.00 Dr	
	SGST (INWARD)	2,21,998.00 Dr	
14-Oct-2017	Purchase - 0046 INVOICE NO:46		30,23,103.00
	PURCHASE GST LOCAL	25,58,451.00 Dr	
	FREIGHT & CARTAGE	3,500.00 Dr	
	CGST (INWARD)	2,30,576.00 Dr	
	SGST (INWARD)	2,30,576.00 Dr	
14-Oct-2017	Purchase - 0047 INVOICE NO:47		29,38,751.00
	PURCHASE GST LOCAL	24,86,967.00 Dr	
	FREIGHT & CARTAGE	3,500.00 Dr	
	CGST (INWARD)	2,24,142.00 Dr	
	SGST (INWARD)	2,24,142.00 Dr	

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Date	Particulars		Debit Amount
10-Nov-2017	**OLYMPUS METAL PVT.LTD.** *AGAINST L/C NO. 016217ILCOW0358 DUE DT. 15 /01/18*		1,95,79,294.00
16-Nov-2017	**(as per details)** *AGAINST L/C NO. 016217ILCOW0400 DUE DT.071 /02/18*		1,77,63,001.00
	BANK CHARGES - SOUTH INDIAN BANK	1,909.00 Dr	
	MARGIN MONEY-OTHERS	46,000.00 Dr	
	LC DISCOUNTING CHARGES-SOUTH INDIAN	3,15,322.00 Dr	
	LC DISCOUNTING - WORLDWIDE	1,81,26,232.00 Cr	
17-Nov-2017	**(as per details)** *AGAINST L/C NO. 016217ILCOW0400 DUE DT. 11 /02/18*		67,27,764.00
	BANK CHARGES - SOUTH INDIAN BANK	1,239.00 Dr	
	MARGIN MONEY-OTHERS	18,000.00 Dr	
	LC DISCOUNTING CHARGES-SOUTH INDIAN	1,23,845.00 Dr	
	LC DISCOUNTING - WORLDWIDE	68,70,848.00 Cr	

Date	Particulars		Credit Amount
14-Oct-2017	**Purchase - 0048** *INVOICE NO 48*		31,61,787.00
	PURCHASE GST LOCAL	26,75,981.00 Dr	
	FREIGHT & CARTAGE	3,500.00 Dr	
	CGST (INWARD)	2,41,153.00 Dr	
	SGST (INWARD)	2,41,153.00 Dr	
7-Nov-2017	**Purchase - 0060** *BILL NO 0060*		34,25,246.00
	PURCHASE GST LOCAL	28,96,250.00 Dr	
	FREIGHT & CARTAGE	6,500.00 Dr	
	CGST (INWARD)	2,61,248.00 Dr	
	SGST (INWARD)	2,61,248.00 Dr	
7-Nov-2017	**Purchase - 0061** *BILL NO:0061*		35,17,031.00
	PURCHASE GST LOCAL	29,74,035.00 Dr	
	FREIGHT & CARTAGE	6,500.00 Dr	
	CGST (INWARD)	2,68,248.00 Dr	
	SGST (INWARD)	2,68,248.00 Dr	
8-Nov-2017	**Purchase - 0062** *BILL NO:0062*		33,80,329.00
	PURCHASE GST LOCAL	28,58,185.00 Dr	
	FREIGHT & CARTAGE	6,500.00 Dr	
	CGST (INWARD)	2,57,822.00 Dr	
	SGST (INWARD)	2,57,822.00 Dr	
9-Nov-2017	**Purchase - 0066** *BILL NO:0066*		33,78,966.00
	PURCHASE GST LOCAL	28,60,530.00 Dr	
	FREIGHT & CARTAGE	3,000.00 Dr	
	CGST (INWARD)	2,57,718.00 Dr	
	SGST (INWARD)	2,57,718.00 Dr	
9-Nov-2017	**Purchase - 0067** *BILL NO:0067*		32,23,587.00
	PURCHASE GST LOCAL	27,28,853.00 Dr	
	FREIGHT & CARTAGE	3,000.00 Dr	
	CGST (INWARD)	2,45,867.00 Dr	
	SGST (INWARD)	2,45,867.00 Dr	
9-Nov-2017	**Purchase - 0065** *BILL NO:0065*		19,63,381.00
	PURCHASE GST LOCAL	16,60,883.00 Dr	
	FREIGHT & CARTAGE	3,000.00 Dr	
	CGST (INWARD)	1,49,749.00 Dr	
	SGST (INWARD)	1,49,749.00 Dr	
9-Nov-2017	**Purchase - 0064** *BILL NO:0064*		14,88,659.00
	PURCHASE GST LOCAL	12,58,575.00 Dr	
	FREIGHT & CARTAGE	3,000.00 Dr	
	CGST (INWARD)	1,13,542.00 Dr	
	SGST (INWARD)	1,13,542.00 Dr	
9-Nov-2017	**Purchase - 0063** *BILL NO:0063*		14,70,460.00
	PURCHASE GST LOCAL	12,43,152.00 Dr	
	FREIGHT & CARTAGE	3,000.00 Dr	
	CGST (INWARD)	1,12,154.00 Dr	
	SGST (INWARD)	1,12,154.00 Dr	
10-Nov-2017	**Purchase - 0068** *BILL NO:0068*		32,92,263.00
	PURCHASE GST LOCAL	27,87,053.00 Dr	
	FREIGHT & CARTAGE	3,000.00 Dr	
	CGST (INWARD)	2,51,105.00 Dr	
	SGST (INWARD)	2,51,105.00 Dr	

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continued ...

13. The Corporate Debtor submits that the same has been acknowledged by the Operational Creditor. To support its contentions, the Corporate Debtor has placed its communication vide letters dated 21.10.2017 and 10.11.2017 to the Operational Creditor, letters dated 21.10.2017 and 11.11.2017 to Olympus Metals Private Limited and Confirmation Letters dated 22.10.2017 and 11.11.2017 to the Corporate Debtor and Letters dated 23.10.2017 and 11.11.2017 from Olympus Metal Private Limited to the Corporate Debtor.

14. It is further submitted by the Corporate Debtor that the following entries have been concealed by the Operational Creditor regarding the payments made by the Corporate Debtor on behalf of the Operational Creditor to M/s Simla Holdings and M/s Oyster Steels and Iron Pvt. Ltd.

Amount (Rs)	Date of letter between the Parties and M/s Simla Holdings and M/s Oyster Steel & Iron Pvt. Ltd.
2,50,00,000	15.02.2018 & 16.02.2018
2,50,00,000	20.02.2018 & 21.02.2018
1,70,00,000	31.03.2018
2,50,00,000	31.03.2018
2,51,53,960.07	31.03.2018
2,50,00,000	31.03.2018
1,96,66,187	30.04.2018

15. On perusal of the letters annexed with the reply and alleged to have been written by the Operational Creditor, it is observed that they bear the signature of one Mr. Sandeep. One such Letter is reproduced below :

Worldwide Metals Private Ltd
Regd. Off. 828, 8th Floor, Laxmi Deep Building, Plot No.-9,
Laxmi Nagar District Center, Vikas Marg, Delhi-110092
email-worldwidemetals2015@gmail.com
CIN No-U51109DL2015PTC286863

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Dt. 11.11.2017

To

M/s J P ENGINEERS PVT LTD
3/8-II FLOOR, SAB HOUSE
ASAF ALI ROAD
NEW DELHI-110002

Sub:- Amount Transfer of Rs. 1,95,79,294.00

Dear Sir,

We have your debit balance in our book of accounts.

We confirm the above mentioned amount & transferred the same amount in your a/c in our books on the behalf of M/s OLYMPUS METAL PVT LTD.

You are kindly requested to do the needful at your end.

Thanking you,

For WORLDWIDE METALS PVT LTD

Sandeep
Worldwide Metals Private Ltd
102, 4th Floor, Aditya Tower
District Center
Vikas Marg Delhi-110092
AUTHORISED SIGN

True copy

16. It is submitted by the Corporate Debtor that the sum total of the amounts shown in its Ledger as mentioned above is Rs.16,18,20,146 (approx.), which equals to the amount claimed in the Petition by the Operational Creditor. The Corporate Debtor has, therefore contended that no amount is payable by them to the Operational Creditor.

17. That the Operational Creditor has filed its Rejoinder on 27.11.2019, inter alia, stating that the letters annexed by the Corporate Debtor of M/s Worldwide Metals Pvt. Ltd. are forged and fabricated ones and are made with an intention to defeat the claim of the Operational Creditor.

18. It is further submitted by the Operational Creditor that the persons, who have signed such letters were not authorized to sign the same on behalf of the Company. The Ld. Counsel for the Operational Creditor has further placed reliance on the Doctrine of Constructive Notice, whereby all persons including the Respondent dealing with the company are deemed to have knowledge of the Company's Articles of Association and Memorandum of Association.

19. The Ld. Counsel for the Operational Creditor has further placed reliance on the Judgment passed by the Principal Bench in the matter of Oyster Steel and Iron Pvt. Ltd Vs Royal Kitchen Appliances CP. IB 968(PB) 2019, the relevant Para of which is quoted below :

> "7. *We repeatedly asked Learned Counsel for the Respondent that is there any resolution passed by the Operational Creditor authorizing the Corporate Debtor to discharge its liability by paying the dues of M/s. Laxmi Wire Netting and Weaving Factory. We also solicited answer to another query with regard to the resolution passed by the Corporate Debtor accepting the assignment of the Petitioner's loan to be paid by it. It is well settled that Companies do not*

orally and the board resolution is the only way to transact the business of a Company. There is not even a single document placed on record showing that the Petitioner has authorized the Corporate Debtor to make payment on its behalf to M/s. Laxmi Wire Netting and Weaving Factory. It cannot therefore be inferred by any stretch of imagination that the payment made to M/s. Laxmi Wire Netting and Weaving Factory by the Corporate Debtor could be regarded as payment made on behalf of the Petitioner-Operational Creditor. Accordingly, we reject the aforesaid defense taken as it is moonshine".

20. It is further submitted by the Operational Creditor that the transfer of Rs.1,95,34,823 and Rs.1,95,79,294 alleged to have been made by the Corporate Debtor to M/s Olympus Metal Private Limited on behalf of Operational Creditor is a false averment made by the Corporate Debtor. It is added that the aforesaid payments were indeed received by the Operational Creditor through RTGS Bank transfer from the Corporate Debtor. The Operational Creditor has annexed its Bank Statements to support its contentions. The details of the Bank Statements reflecting payment of Rs.1,95,34,823 on 21.10.2017 and Rs,1,95,79,294 on 10.11.2017 by the Corporate Debtor to the Operational Creditor, are reproduced overleaf :

PUNJAB NATIONAL BANK
****
BO: DELHI NEW, ECE HOUSE
26A, K G MARG, , ECE HOUSE,CANTT.PLACE - 110001
(Phone: 23321503, 23312956)

MICR Code: 110024043 PRINTED BY :330886PCS
IFSC Code: PUNB0112000 DATE :12-09-2018 16:01:09

A/C NO: 1399008700002207 (INR) Nomination not registered
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M/S. WORLDWIDE METALS PRIVATE LIMITED
/WORLDWIDE METALS PRIVATE LIMITED
402, 4TH FLOOR, ADIRYA TOWER
LAXMI NAGAR, DIST CENTRE
DELHI
DELHI - 110092
INDIA
STATEMENT OF ACCOUNT FOR THE PERIOD OF 01-04-2016 to 11-09-2018 Rate of Interest : 15.45 (as on 11-09-2018)

##########330886PCS##12-09-2018##

DATE	PARTICULARS	ALPHA	CHQ.NO.	WITHDRAWALS	DEPOSITS	BALANCE
18-10-2017	RTGS To :			61.		94,02,03,469.84 Dr
18-10-2017	RTGS To :	0		98,40,722.603769		95,00,44,191.84 Dr
18-10-2017	RTGS To :			61.		95,00,44,253.20 Dr
18-10-2017	RTGS To :	0		97,00,000.603771		95,97,44,253.20 Dr
-10-2017	RTGS To :			61.		95,97,44,314.56 Dr
.3-10-2017	NEFT IN:N291170391688219:MAHABIR ENTERPR					
	:HDFC0000001:03482560004963				1,81,571.00	95,95,62,743.56 Dr
20-10-2017	RTGS From : 01710207449673 1/SHINHAN B				92,70,916.20	95,02,91,827.36 Dr
21-10-2017	RTGS From : 017102100459243/THE SOUTH				1,95,34,823.00	93,07,57,004.36 Dr
21-10-2017	RTGS To :	0		97,34,823.603768		94,04,91,827.36 Dr
21-10-2017	RTGS To :			64.		94,04,91,892.26 Dr
21-10-2017	RTGS To :	0		98,00,000.603767		95,02,91,892.26 Dr
21-10-2017	RTGS To :			64.		95,02,91,957.16 Dr
23-10-2017	RTGS From : 017102356244491/MAHABIR E				9,25,000.00	94,93,66,957.16 Dr
23-10-2017	Transfer From A/C 0062003211402A					
	NEFT INWARD SETTLEMENT ACCOUNT				16,00,000.00	94,77,66,957.16 Dr
23-10-2017	RTGS From : 017102300572651/PREMIERLI				35,00,000.00	94,42,66,957.16 Dr
23-10-2017	RTGS From : 017102300790611/SHRI PASH				15,00,000.00	94,27,66,957.16 Dr
23-10-2017	RTGS To :	0		49,92,217.603787		94,77,59,174.16 Dr
23-10-2017	RTGS To :			64.		94,77,59,239.06 Dr
23-10-2017	RTGS To :	0		71,00,000.603783		95,48,59,239.06 Dr
23-10-2017	RTGS To :			64.		95,48,59,303.96 Dr
23-10-2017	RTGS From : 017102300841436/MAHABIR E				10,00,000.00	95,38,59,303.96 Dr
23-10-2017	NEFT OUT:PUNBH17296850046:VEDANTA LTD					
	:ICIC0000103:SSLCCR000			50,00,000.00		95,88,59,303.96 Dr
23-10-2017	NEFT CHRG:PUNBH17296850046:VEDANTA LTD					
	:ICIC0000103:SSLCCR0000027736			29.50		95,88,59,333.46 Dr
24-10-2017	NEFT IN:BARBW17297152303:MAHABIR ENTERPR					
	:BARB0VIDJAI:29200400000307				10,00,000.00	
-2017	NEFT IN:BARBW17297152579:MAHABIR ENTERPR					95,78,59,333.46 Dr
	:BARB0VIDJAI:29200200001007				3,00,000.00	
24-10-2017	NEFT IN:000101654505:INDIAN METALS					95,75,59,333.46 Dr
	:INDB0000006:650014042037				9,99,999.00	
24-10-2017	Transfer From A/C 0062003211402A					95,65,59,334.46 Dr
	NEFT INWARD SETTLEMENT ACCOUNT					
24-10-2017	RTGS From : 017102400076021/NATIONAL				16,00,000.00	95,49,59,334.46 Dr
24-10-2017	RTGS From : 017102400691844/INDIAN ME				68,00,000.00	94,81,59,334.46 Dr
24-10-2017	RTGS To :	0			3,60,000.00	94,77,99,334.46 Dr
24-10-2017	RTGS To :			1,15,00,000.679560		95,92,99,334.46 Dr
25-10-2017	Transfer From A/C 0062003211402A			64.		95,92,99,399.36 Dr
	NEFT INWARD SETTLEMENT ACCOUNT					
					10,00,000.00	95,82,99,399.36 Dr

##########330886PCS##12-09-2018##
,399.36 Dr
##########330886PCS##12-09-2018##

PUNJAB NATIONAL BANK

BO: DELHI NEW, ECE HOUSE
26A, K G MARG, , ECE HOUSE,CANTT.PLACE - 110001
(Phone: 23321503, 23312956)

67

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IFSC Code: PUNB0112000

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A/C NO: 1399009700002207 (INR) Nomination not registored

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M/S. WORLDWIDE METALS PRIVATE LIMITED
/WORLDWIDE METALS PRIVATE LIMITED
402, 4TH FLOOR, ADIRYA TOWER
LAXMI NAGAR, DIST CENTRE
DELHI
DELHI - 110092
INDIA STATEMENT OF ACCOUNT FOR THE PERIOD OF 01-04-2016 to 11-09-2018 Rate of Interest : 15.45 (as on 11-09-2018)

##########330886PCS##########12-09-2018##########

DATE	PARTICULARS	ALPHA	CHQ.NO.	WITHDRAWALS	DEPOSITS	BALANCE
10-11-2017	NEFT IN:SIBLN17314043894:J P ENGINEERS P :SIBL0000358:0358253000000021				1,95,79,294.00	94,02,40,719.34 Dr
13-11-2017	Transfer From A/C 0062003211402A NEFT INWARD SETTLEMENT ACCOUNT				16,50,000.00	93,85,90,719.34 Dr
13-11-2017	RTGS To :		1	98,00,000.679593		94,83,90,719.34 Dr
13-11-2017	RTGS To :			61.		94,83,90,780.70 Dr
13-11-2017	RTGS To :		1	97,79,000.679592		95,81,69,780.70 Dr
13-11-2017	RTGS To :			61.		95,81,69,842.06 Dr
13-11-2017	RTGS From : 017111300495492/SHRI PASH				4,50,000.00	95,77,19,842.06 Dr
13-11-2017	RTGS From : 017111300732878/PREMIERLI				17,00,000.00	95,60,19,842.06 Dr
13-11-2017	RTGS To :		1	39,00,000.679567		95,99,19,842.06 Dr
13-11-2017	RTGS To :			64.		95,99,19,906.96 Dr
13-11-2017	21-52448				45,00,000.00	95,54,19,906.96 Dr
13-11-2017	NAV (SAHIBABAD)				30,00,000.00	95,24,19,906.96 Dr
13-11-2017	NEFT OUT:PUNBH17317187734:VEDANTA LTD :ICIC0000103:SSLCCR000			75,00,000.00		95,99,19,906.96 Dr
13-11-2017	NEFT CHRG:PUNBH17317187734:VEDANTA LTD :ICIC0000103:SSLCCR0000027736			29.50		95,99,19,936.46 Dr
13-11-2017	WORLD WIDE METALS PVT LTD				17,00,000.00	95,82,19,936.46 Dr
14-11-2017	NEFT IN:BARBS17318621037:MAHABIR ENTERPR :BARB0VIDJAI:29200400000307				16,00,000.00	95,66,19,936.46 Dr
14-11-2017	RTGS From : 017111400353307/NATIONAL				34,00,000.00	95,32,19,936.46 Dr
14-11-2017	RTGS From : 017111457970420/ZODIACENT				22,00,000.00	95,10,19,936.46 Dr
14-11-2017	NEFT IN:P17111434023900:GSJ METALS :CNRB0008989:3822261000040				81,284.00	95,09,38,652.46 Dr
14-11-2017	RTGS To :		1	90,00,000.679590		95,99,38,652.46 Dr
14-11-2017	RTGS To :			64.		95,99,38,717.36 Dr
14-11-2017	Transfer From A/C 0062003211402A NEFT INWARD SETTLEMENT ACCOUNT				16,50,000.00	95,82,88,717.36 Dr
14-11-2017	21-52448				65,00,000.00	95,17,88,717.36 Dr
14-11-2017	NEFT IN:N318170410420916:ZODIAC ENTERPRI :HDFC0000240:03482790000547				5,00,000.00	95,12,88,717.36 Dr
14-11-2017	NEFT OUT:PUNBH17318355910:SIMLA HOLDINGS :ANDB0000162:016211100			40,00,000.00		95,52,88,717.36 Dr
14-11-2017	NEFT CHRG:PUNBH17318355910:SIMLA HOLDINGS :ANDB0000162:016211100000168			29.50		95,52,88,746.86 Dr
15-11-2017	RTGS To :		1	45,77,557.679594		95,98,66,303.86 Dr
15-11-2017	RTGS To :			59.		95,98,66,362.86 Dr
15-11-2017	Transfer From A/C 0062003211402A NEFT INWARD SETTLEMENT ACCOUNT				16,50,000.00	95,82,16,362.86 Dr

##########330886PCS##########12-09-2018##########

Cumulative Totals: 49207,16,704.0839625,00,341.22 95,82,16,362.86 Dr

##########330886PCS##########12-09-2018##########

(IB)-1048(ND)2019
M/s Worldwide Metals Pvt. Ltd. Vs M/s J.P. Engineers Pvt. Ltd.

21. Per contra, the Ld. Counsel for the Corporate Debtor has placed reliance on the Judgment passed by this Tribunal in the matter of M/s Oyster Steels and Iron Pvt. Ltd. Vs M/s SMW Metals Private Limited in (IB)-1244(ND)2019, the extract of which is reproduced below :

> *"Therefore, there exists a pre-existing dispute. Moreover, the relationship between the Corporate Debtor and Operational Creditor regarding the supply of goods and payment thereof is not direct and clear. That the documents placed by the Respondents are alleged to have been forged, which gives rise to a civil dispute, which requires further investigation, as such disputes will require adducing of further evidences and cross examination and cannot be resolved by this Tribunal summarily".*

22. After hearing submissions of both the Parties and perusing the documents placed on record, this Bench has observed that the Corporate Debtor has not made any specific averments in its Notice of Dispute dated 05.11.2018 as regards to payment of the debt owed to the Operational Creditor to the other concerns namely, M/s Olympus Metal Private Limited, M/s Simla Holdings and M/s Oyster Steels and Iron Pvt. Ltd. Further, on comparison of the Ledger of Operational Creditor and Corporate Debtor with the Bank Statements, it is apparent on the face of the record that the Corporate Debtor has made payments of Rs.1,95,34,823 on 21.10.2017 and Rs.1,95,79,294 on 10.11.2017 to the Operational Creditor by RTGS Bank transfer.

23. Further, the Corporate Debtor failed to produce any tri-parte agreement amongst the Operational Creditor, Corporate Debtor and its sister concerns, authorising the Corporate Debtor to make payments to other concerns. Moreover, the Debtors are Assets of the Company, which cannot be extinguished or transferred to another concern in the absence of any specific agreement or specific Board resolution to that effect in favour of the Corporate Debtor.

24. In view of the above, this Bench is of the opinion that the dispute raised by the Corporate Debtor is illusionary and moonshine, which is upstretched with an intention to erase its liability and defeat the claim made by the Operational Creditor.

25. In the given facts and circumstances, the present Petition being complete and having established the default in payment of the Operational Debt beyond doubt, the Operational Creditor is entitled to claim its dues. The amount of default being above Rs.1,00,000 for the unpaid invoice, the Petition is admitted in terms of Section 9(5) of the IBC and accordingly, moratorium is declared in terms of Section 14 of the Code. As a necessary consequence of the moratorium in terms of Section 14(1) (a), (b), (c) & (d), the following prohibitions are imposed, which must be followed by all and sundry:

"(a) The institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;

(b) Transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;

(c) Any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;

(d) The recovery of any property by an owner or lessor, where such property is occupied by or in the possession of the corporate debtor."

26. As Proposed by the Operational Creditor, this Bench appoints Mr. Sumit Bansal as an IRP, having IBBI Registration No. IBBI/IPA-001/IP-P00111/2017-18/10218 subject to the condition that no disciplinary proceedings are pending against the IRP named and disclosures as required under IBBI Regulations, 2016 are made within a period of one week from this Order. The IRP is directed to take the steps as mandated under this Code specifically under Section 17, 18, 20 and 21 of IBC, 2016.

27. The Operational Creditor is directed to deposit Rs.2,00,000 (Two Lakh) only with the IRP to meet the immediate expenses. The amount, however, will be subject to adjustment by the Committee of Creditors as accounted for by the Interim Resolution Professional and shall be paid back to the Operational Creditor.

28. A copy of this Order shall be communicated to the Operational Creditor, the Corporate Debtor and the IRP mentioned above, by the Registry of this Tribunal. In addition, a copy of the Order shall also be forwarded by the Registry to IBBI for their records.

-Sd-

(L. N. Gupta)
Member (T)

-Sd-

(Dr. Deepti Mukesh)
Member (J)